

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

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BRUCE EDWARD HADDIX & RAE ANNE	)	
HADDIX,	)	
	)	
Petitioners,	)	
	)	
v.	)	Docket No. 7385-16 L
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

**ORDER**

In a Notice of Determination Concerning Collection Action(s) Under Section 6320 and/or 6330 of the Internal Revenue Code, dated February 23, 2016 (notice), respondent determined that a levy is an appropriate collection action with respect to petitioners' outstanding 2010, 2012, and 2013 Federal income taxes (underlying liabilities). Petitioners timely commenced this proceeding to challenge that determination. As best as can be determined from allegations contained in the petition, petitioners challenge the existence or the amounts of the underlying liabilities. Although not obvious from the petition it appears that petitioners, at the administrative hearing, requested a collection alternative to the proposed collection action as well.

The matter is now before the Court on motions to quash subpoenas served at petitioners' requests. One motion, filed October 31, 2016, relates to a subpoena served on Charles Walling commanding him to appear for deposition on October 31, 2016. The other motion, also filed October 31, 2016, relates to a motion served on Charles M. Hopkins, also for purposes of a deposition. See Rule 74(c).<sup>1</sup> Apparently neither deposition took place. Both motions were heard in Dallas, Texas, on November 17, 2016. Gary Eisenstat appeared on behalf of both moving parties and argued in support of the motions. A written statement in support of the motions, filed November 17, 2016, was also submitted on behalf of the moving

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<sup>1</sup>Rule references are to the Tax Court Rules of Practice and Procedure, available on the Internet at [www.ustaxcourt.gov](http://www.ustaxcourt.gov).

parties. See Rule 50(c). Cindy L. Wofford appeared on behalf of respondent. There was no appearance by or on behalf of petitioners.<sup>2</sup>

At the hearing respondent's counsel advised that the parties have yet to engage in a meaningful stipulation process. See Rule 91. That being so, petitioners' attempted discovery violates the long standing Court practice that the parties are expected to exchange information informally before resorting to formal discovery. See Rule 70(a); Branerton Corp v. Commissioner, 64 T.C. 191 (1975). It remains to be seen whether the information petitioners intended or expected to obtain through the deposition process might be subject to stipulation by the parties. Furthermore, our Rules provide that the deposition process petitioners initiated is an "extraordinary method of discovery" making the satisfaction of prior informal consultation before discovery even more essential. See Rule 74(c)(2).

More problematic, however, is petitioners' attempts to use the Court's Rules to obtain information that seems to have no bearing on the issues typically involved in proceedings such as this one. This is true with respect to each moving party. The individuals/moving parties apparently have some prior employment related connection with at least one of the petitioners, but the relationship of each of those individuals with respect to the underlying liabilities or the proposed collection action here in dispute is hardly apparent. As demonstrated in this case and at least one other previously dismissed Tax Court case, petitioners' apparent propensity to issue and have served subpoenas upon individuals for information that hardly seems reasonably calculated to lead to admissible evidence in a Tax Court proceeding is an abuse of the Court's Rules. See Rule 70(b). It would be improper for the Court to allow this practice to continue unchecked. That being so, it is

ORDERED that both motions are granted. It is further

ORDERED that without leave of Court to do so upon a showing of good cause, and regardless of whether respondent consents or does not object,

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<sup>2</sup>Apparently petitioners served the moving parties with a copy of written statement in opposition to the motions. A copy of the written statement was presented to the Court at the hearing by Mr. Eisenstat, however, the document, although reviewed, has not been filed because petitioners have not submitted a signed original directly to the Court. Petitioners' objection to the motions, although filed on November 18, 2016, after the date of the hearing, has been taken into account.

petitioners may not cause a subpoena to be issued to any non-party witness for discovery or trial purposes. It is further

ORDERED that petitioners' violation of the preceding paragraph could result in the imposition of sanctions, including dismissal of the case upon their failure properly to prosecute it, see Rule 123(b), contempt, and/or the imposition of costs.

ORDERED that, in addition to regular service on the parties, the Clerk of the Court shall serve a copy of this Order on counsel for Mr. Walling and Mr. Hopkins at their attorney's address as shown in the motions.

**(Signed) Lewis R. Carluzzo**  
**Special Trial Judge**

Dated: Washington, D.C.  
December 7, 2016